REMARKS

Claims 1-12 were pending in the application. Claim 13 has been added. Accordingly, claims 1-13 are presented for reconsideration and further examination in view of the following remarks.

In the outstanding Office Action, the Examiner indicated that Applicants have not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 USC § 120; rejected claims 1, 2, and 10 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,496,103 to Weiss et al in view of U.S. Patent No. 6,519,509 to Nierlich et al; and rejected claims 3-9, 11, and 12 under 35 U.S.C. § 103(a) as being unpatentable over Weiss et al and Nierlich et al in further view of U.S. Patent No. 5,717,934 to Pitt et al

By this Response no claims are amended, claim 13 is added, and the prior art rejections are traversed. Support for the features in claim 13 can be found at least for example in Figures 1 and 2. Arguments in support thereof are provided.

It is further respectfully submitted that the proposed amendments introduce no new matter within the meaning of 35 U.S.C. § 132.

Interview

In an interview with Examiner Dohm Chankong on November 23, 2004, Applicants' Representative, Teresa M. Arroyo, presented a draft new claim 13 and discussed how claims 1-12 distinguished over the cited references.

Priority

The Examiner indicated that Applicants have not complied with one or more conditions for

receiving the benefit of an earlier filing date under 35 USC § 120. The Examiner also indicated that

the instant application incorporates a user configuration file for affecting power-control ports and its

associated functionality which the Examiner was unable to locate in Application Nos. 09/732,557,

09/375,471, or 09/685,436 (now U.S. Patent No. 5,949,974). Therefore, the Examiner considers the

subject matter of this application as having a priority date of June 26, 2001.

In response, this application is a Continuation-In-Part (CIP) of Application No. 09/732,557,

filed December 8, 2000. This CIP is an application filed during the lifetime of earlier non-

provisional Application No. 09/732,557, repeats some substantial portion of the earlier non-

provisional application, and *adds matter not disclosed* [emphasis added] in the earlier non-

provisional application. (*In re Klein*, 1930 C.D. 2, 393 O.G. 519 (Comm'r Pat. 1930)). The

matter not disclosed in Application No. 09/732,557 includes at least the user configuration file.

Therefore, Applicants respectfully submit that this Continuation-In-Part application can properly

claim the benefit of the prior non-provisional application under 35 U.S.C. § 120.

> "Unless the filing date of the earlier non-provisional application is actually
> needed, for example, in the case of an interference or to overcome a reference,
> there is no need for the Office to make a determination as to whether the
> requirement of 35 U.S.C. § 120, that the earlier non-provisional application
> discloses the invention of the second application in the manner provided by the
> first paragraph of 35 U.S.C. § 112, is met and whether a substantial portion of all
> of the earlier non-provisional application is repeated in the second application in a
> continuation-in-part situation." MPEP 201.08.

Accordingly, Applicants respectfully request that this CIP application be permitted to

claim the benefit of the filing date of the earlier non-provisional application since Applicant has

complied with the following formal requirements of 35 U.S.C § 120:

(A) The first application 09/732,577 and this continuation-in-part application 09/892,350 were filed with at least one common inventor, Carrel Ewing and Andrew Cleveland;

(B) This continuation-in-part application 09/892,350 was "filed before the patenting or abandonment of or termination of proceedings on the first application issued or an application similarly entitled to the benefit of the filing date of the first application (09/732,577 is still pending)"; and

(C) This continuation-in-part application "contains or is amended to contain a specific reference to the earlier filed application." (The specific reference is on the first line of the specification of this application.)

Rejections under 35 U.S.C. § 103(a)

The Examiner rejected claims claims 1, 2, and 10 as being unpatentable over Weiss et al in view of Nierlich et al; and rejected claims 3-9, 11, and 12 as being unpatentable over Weiss et al and Nierlich et al in further view of Pitt et al Reconsideration and withdrawal of the rejection is respectfully requested.

To establish a *prima facie* case of obviousness, the Examiner must establish: (1) that some suggestion or motivation to modify the references exists; (2) a reasonable expectation of success; and (3) that the prior art references teach or suggest all the claim limitations. Amgen, Inc. v. Chugai Pharm. Co., 18 USPQ2d 1016, 1023 (Fed. Cir. 1991); In re Fine, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988); In re Wilson, 165 USPQ 494, 496 (C.C.P.A. 1970).

It is respectfully submitted that, among other things, the combination of references fails to teach or suggest all of the claim limitations as set forth in independent claims 1 and 10.

The present invention discloses a system and method for providing power supply status and control in network nodes at geographically separate locations.

Claim 1 recites a combination of features, including for example, *inter alia,* a power controller device, a user configuration file, memory, and a file transfer mechanism.

Claim 10 recites a combination of features, including for example, inter alia, uploading a user configuration file and downloading a substitute user configuration file.

In contrast with claim 1 of the present invention, Weiss et al discloses a device, system, and method for providing power in a secure manner. In column 5, lines 32-44, Weiss et al discusses an intelligent power unit 22 that is able to identify each network device 16, in order to determine whether that particular network device 16 is authorized to be connected to network 12 through switching device 14. In column 4, lines 64-67, an intelligent power supply is said to communicate with a low power communication device at each network device, which supplies the necessary information upon request. Further, low power communication device 24 includes a memory 26 for storing information about the particular network device 16.

In further contrast with claim 1 of the present invention, in Weiss et al, a power supply 32 is connected to a plurality of power ports 34, and each power port 34 features a separate processor 36. Processor 36 is in communication with a memory 40. Column 7, lines 6-23.

However, the intelligent power unit 22 in Weiss et al does not have a <u>serial interface for communicating with a user</u> [emphasis added] as recited by the power-controller device in claim 1 of the instant application. Rather, intelligent power unit 22 in Weiss et al features a manual power override control 30, if the user wishes to supply power to network device 16 regardless of an alarm/warning. "Thus, manual power override control 30 preferably enables the human operator/user to determine when power is to be supplied to a particular network device 16 if

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intelligent power unit 22 determines that such power is not to be automatically supplied." See

column 60, line 42 to column 7, line 5.

Further, Weiss et al does not disclose a user configuration file for <u>affecting the plurality</u>

<u>of power-control ports</u> [emphasis added] as recited in claim 1 of the present invention. Instead,

each power port 34 features a separate processor 36, for performing an interrogation process, and

a hardware controller 38, for controlling the supply of power through power port 34. Column 7,

lines 6-23.

In addition, Weiss et al does not disclose a memory disposed in the power-controller

device and <u>providing for storage of the user configuration file</u> [emphasis added] as recited in

claim 1 of the instant application. In contrast, low power communication device 24 preferably

includes a memory 26, for storing information about the particular network device 16. Column 5,

lines 45-64. On the other hand, in column 7, lines 6-23, processor 36 is in communication with a

memory 40, which contains the necessary data for determining whether the network device

should receive power. Memory 40 is either provided separately for each power port 34 as shown,

or alternatively is shared by a plurality of power ports 34.

Furthermore, Weiss et al does not disclose a file transfer mechanism for <u>importing and</u>

<u>exporting</u> [emphasis added] the user configuration file to said user via said serial interface as

recited in claim 1 of the present invention.

Although, the Examiner correctly states that Weiss et al does not disclose that the user

configuration file is exported to the user, Weiss et al also does not disclose a file transfer

mechanism for "importing" the user configuration file to the user. The Examiner cites Nierlich

et al as curing the deficiencies of Weiss et al.

Nierlich et al teaches a system and method for monitoring and controlling energy distribution. If the management device 10 determines that the Application Software is outdated, the management device 10 downloads a new version of the Application Software before continuing its intialization routine. Synchronization allows the management device 10 to track load profiles and curtailment events in real-time. If after comparing the timestamp of its Configuration File with the configuration timestamp stored in management device memory, the E1-2000 4 network access device determines that the attributes are different, it downloads an updated Cofiguration File. Column 5, lines 38-62.

Further in column 6, lines 25-43., all communication to the E1-2000 4 is routed through the management device 10 or the LAN that decides whether it is safe to allow a message, a program parameter, a file, or other data to pass to the E1-2000 4 device.

The E1-2000 4 validates its Configuration File by downloading curtailment notification instructions before clearing expired or uploaded data, logging off of the management device 10, and disconnecting from the ISP 12.

Among other reasons, Applicants respectfully submit that Nierlich et al fails to cure the deficiencies of Weiss et al with regard to the serial interface for communicating with a user, the user configuration file for affecting the power-control ports, the memory providing for storage of a user configuration file, or importing a user configuration file.

The Applicants submit that Nierlich et al merely teaches downloading a newer version of Application Software that evaluates load and an updating a configuration file for power curtailment. There is no importing/exporting of a "user" configuration file; Nierlich et al simply controls energy use by disconnecting dispensable loads. See column 12, lines 10-20.

Similarly, the purported combination of Weiss et al and Nierlich et al fail to teach or suggest uploading a copy of the user configuration file and downloading a substitute user configuration file as recited in claim 10 for at least the same reasons as discussed above.

Applicants respectfully submit that Weiss et al and Nierlich et al does not teach or suggest the above features of the presently claimed invention. The Applicants therefore respectfully submit that the claims as presently presented patentably define over these references taken alone or in combination.

There must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify or combine reference teachings. See MPEP 2143.01. Applicants respectfully submit that there is no suggestion to modify or combine the two teachings. Weiss et al teaches determining whether to provide power in a secure manner to a network device based on the electrical capabilities of the device and whether the device is authorized to be connected to the network. See Abstract. Whereas, Nierlich et al teaches monitoring and controlling energy distribution for a distributed network to initiate curtailment requests and disconnect dispensable loads. See column 1, lines 18-24. Therefore, Weiss et al teaches using a processor for interrogating a communication device, while Nierlich et al teaches uses a network access device that interfaces with power monitoring and curtailment circuitry. Thus, Applicants submit that there is a lack of suggestion of the desirability of combining these two references.

Since, as claims 2 depends from claim 1, claim 2 is also allowable.

Accordingly, reconsideration and withdrawal of the rejection of claims 1, 2, and 10 under 35 U.S.C. § 103(a) is respectfully requested.

Regarding claims 3-9, 11, and 12, the Examiner stated that the combination of Weiss et al and Nierlich et al does not disclose the command system of claims 3 and 4, the transfer mechanism of claims 5 and 6, the editor of claims 7 and 8, the computer data network, command mechanism, transfer mechanism, and editor of claim 9, and the step of checking the integrity of the user file of claims 11 and 12. In summary, dependent claims 3-9 relate to the transfer mechanism of claim 1, which imports and exports the user configuration file, and dependent claims 11 and 12 relate to the replacing of the user configuration file in claim 10.

The Examiner cites Pitt et al to cure the deficiencies of the other two references. Pitt et al teaches a sequential computer network shutdown system and process therfore. Each of file server 12, database server 18, work stations 20, 24, and 26, and network communicaiton device 28 have their own shutdown software 30 and UPS 32. The system administrator at his computer 34 uses a user interface program 36 to define a shutdown configuration. Column 3, line 58 to column 4, line 12. The user interface software in step 44 calculates a recommended shutdown schedule for each computer or device to be shut down. Column 3, lines 41-46.

As a result, the Applicants submit that the Pitt et al reference does not teach or suggest a user configuration file that is imported/exported as recited in claim 1, or that is uploaded and downloaded using a replacement file. Pitt et al merely teaches providing a user configurable rule based sequencing of the shutdown of individual devices or the entire computer network using software. Thus, for these and other reasons, Pitt et al fails to cure the deficiencies of Weiss et al and Nierlich et al.

Applicants respectfully submit that the purported combinations of Weiss et al, Nierlich et al, and Pitt et al does not teach or suggest the above features of the presently claimed invention;

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and therefore respectfully submit that the claims as presently presented patentably define over these references taken alone or in combination.

As discussed above, Applicants submit that there is a lack of suggestion of the desirability of combining the Weiss et al and Nierlich et al references. Additionally, there is no suggestion to modify or combine those two references with the Pitt et al reference, which teaches following a user configurable rule to sequence the shutdown of device or an entire computer network.

In addition, as claims 3-9 depends from claim 1 and claims 11 and 12 depend from claim 10, these claims are believed to be allowable for at least the same reasons as discussed above regarding independent claims 1 and 10.

Accordingly, reconsideration and withdrawal of the rejection of claims 3-9, 11, and 12 under 35 U.S.C. § 103(a) is respectfully requested.

New claim

New claim 13 recites a combination of features, *inter alia* a separate power network and data communication network. The use of two separate networks allows power to be provided to conventional equipment that does not need to be modified. Claim 13 further features a user configuration file transfer application that selectably imports or exports a user configuration file. Therefore, Applicants respectfully submit that claim 13 is allowable because none of references singly or in combination teach a user configuration file as discussed above in regards to claims 1 and 10, and additionally, two separate networks.

CONCLUSION

In light of the foregoing, Applicants submit that the application is now in condition for allowance. If the Examiner believes the application is not in condition for allowance, Applicants respectfully request that the Examiner contact the undersigned attorney if it is believed that such contact may expedite the prosecution of the application. Favorable action with an early allowance of the claims is earnestly solicited.

Respectfully submitted,

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